

Green Paper: Transforming Public Procurement

Consultation response Submission to Cabinet Office

10 March 2021

Summary

The Green Paper: Transforming Public Procurement was published by Cabinet Office in December 2020.

The National Housing Federation (NHF) is the trade body for housing associations. With almost 800 housing association members, providing homes for around six million people, we are at the forefront of tackling the nation's housing crisis.

The National Housing Federation has written the following submission based on feedback from procurement professionals working within the housing association sector, focusing on issues which might impact specifically on housing associations.

We would welcome the opportunity to discuss the matters raised in more detail with the government as proposals are progressed.

Housing associations' procurement priorities

Housing associations procure a substantial and broad range of goods and services each year including for service delivery, maintenance and repair, and construction.

In 2020 our members delivered more than 20% of all new homes built in England, within the context of providing homes to around 11% of the population, our sector is a driving force in supplying new housing.

Last year housing associations delivered more than 70% of all new homes delivered through the Affordable Homes Programme, along with another 13,500 affordable homes delivered outside the programme.

Looking at the [global accounts of private registered providers, published by MHCLG](#), housing associations show consolidated turnover of £20.5bn for 2019 (the latest year covered). The figures also show £7.7bn being spent on new social rental properties, with a further £1.9bn being invested in existing social rental properties.

Effective procurement will be central to housing associations' ambition to deliver on their social mission for residents and communities in future years.

Many housing associations choose to define themselves as contracting authorities for the purposes of public procurement regulations, and in some cases this is required as a condition of receiving public grant. All housing associations are committed to the principles that underpin the current approach to public procurement.

The first priority for housing associations is ensuring all homes are safe, and our members are committed to taking the necessary steps to ensure all current and future homes comply with the conditions set out the forthcoming Building Safety Act and Fire Safety Act.

They are also embracing the changes required to deliver a greener, more sustainable future for the housing sector. Housing associations are key to delivering the government's decarbonisation agenda and are progressing at pace with modern methods of construction, evaluating materials used in house building, and redesigning how our homes are insulated or heated.

Housing associations are key to alleviate the housing crisis, and collectively, NHF members have ambitious plans for the delivery of new homes through their own development programmes and via Section 106 agreements with developer partners.

And finally housing associations procure a wide range of services for their residents, where quality and value for money are vital.

The procurement landscape housing associations operate in is often complex and our members value clarity, flexibility and fairness in this context.

Evaluation

NHF members welcome the move away from the prioritisation in awarding contracts to the 'lowest bid' and greater emphasis on delivering broader value for money, not just financial savings. They are in favour of procurement practices that consider new local job creation, climate change and net carbon reduction, and supply chain diversity to include local businesses.

Similarly NHF members welcome moves to allow them to consider broader factors in awarding contracts including taking into account suppliers' records on prompt payment of subcontractors and/or their plans for achieving environmental targets more generally.

Centralising Procurement Oversight

Some members raised concerns over the suggestion in the green paper to withdraw procurement flexibility and emphasis away from sub-central government, potentially creating a system of procurement regulation that is more challenging for procurers operating at a local, community-based level.

Housing associations vary in size, type and geography but are united in their social purpose and their commitment to local place-making. Many housing associations are considered anchor institutions – organisations that, in addition to their core functions, deliver significant benefits to the wider local economy. Anchor institutions tend to be major employers and spenders, often with strong local ties.

Our members have suggested that the new system should safeguard the flexibility of housing associations to best serve the communities they work with. Centrality is costly for housing associations, who are already subject to a patchwork of regulation surrounding their operation. NHF members are clear that emphasis on value for money must be balanced against their social purpose and not for profit status.

Transparency

Members welcome the principle of transparency around procurement, but suggested it is important that this is implemented in a way that's mindful of any additional administrative burden, and practicable for organisations like housing associations who are not subject to the Freedom of Information Act..

The new measures in the paper suggest procurement information would be published through a notice or on a centrally managed data registry. Our members have raised concerns around this issue regarding the administrative burden of such a system, as they are not equipped to respond to requests of this nature, and would require significant time and resources to do so.

Housing associations are often involved in complex procurement arrangements and the amount of information required to be made public presents an onerous challenge=.

The added bureaucracy associated with requests for information risks stifling housing associations' ability to procure flexibly and in a way that delivers on their social impact objectives. Requirements presented in the green paper would necessitate the introduction of new IT systems and interfaces in order to record and supply the information needed, which would be costly and time consuming.

NHF members did not recognise the assumptions made in the green paper to support the introduction of new transparency measures around bidders making speculative claims, and we could find no evidence of that practice.

Procurement Tools

Housing associations are unique in their procurement experiences, and while there is recognition from NHF members that the current procurement frameworks are not entirely suited to their purposes, the frameworks suggested in Chapter 5 of the green paper would not resolve the current challenges within the system.

Housing associations are increasingly involved in complex land and regenerations projects involving Section 106 agreements with developers and the procurement tools outlined in the green paper could be a poor fit in these circumstances.

NHF members are often simultaneously contracting authorities, bidders and conduits in these agreements, and there is a concern that the tools provided in the green

paper are designed to apply to routine and repetitive procurement, rather than the multifaceted environment housing associations procure within.

The NHF believes further consideration is needed to ensure that the procurement tools provided by any new regulation are flexible and nuanced enough to apply to housing associations, if the aspiration remains that measures should apply to them, and in particular if adherence is a condition of funding receipts.

Leaseholder Consultation

A specific challenge for housing associations in procurement is the need to consult with leaseholders and tenants on works over a specific cost threshold, in line with Section 20 of the Landlord and Tenant Act 1985.

Coordinating Section 20 consultation can take up to six months and it can be challenging to run alongside a procurement process. The two systems are capable of integrating more effectively and our members have flagged that they would like to explore opportunities for any new legislation to deliver a solution to this long-standing issue.

Conclusion

NHF members support the principles behind the proposed new procurement regime – particularly a stronger focus on delivering value for money, social value and place-based impact. We are keen that the new public procurement regime supports housing associations to deliver on their social mission and keen to work with the government on the detail of the proposals in order to achieve this.